

REMARKS

In the office action mailed November 3, 2010, the Examiner withdrew indication of allowability for claims 1, 7, 8, 10-12, 66, 84-124, 129, and 130, withdrew the finality of the previous Office Action, and made new rejections based on surrender and recapture. Claims 1, 66, and 129 were rejected under 35 U.S.C. § 251 as being an improper recapture of subject matter surrendered during original prosecution. Claims 125-128 were allowed. Claims 106-120 were objected to as being in improper format for a reissue application.

Reconsideration and re-examination of the application as amended is respectfully requested.

Rejection Under 35 U.S.C. § 251

Claims 1, 66, and 129 were rejected under 35 U.S.C. § 251 as being an improper recapture of subject matter surrendered during original prosecution. Applicant respectfully disagrees and traverses the rejection for the reasons summarized below. However, proposed amendments to originally patented Claims 1-83 have been withdrawn and proposed added Claims 84-105, 121-124, 129, and 130 have been canceled to advance prosecution.

As explained in detail in Applicant's previous response, which is incorporated here by reference, the proposed amendments to claims 1, 66, and 129 were to delete the phrase added by the amendment filed on 6/11/99 to overcome the rejection under 35 U.S.C. § 112, paragraph 1. As such, there is no impermissible recapture because this limitation was not added in response to a prior art rejection. Rather, the limitations added in the previous amendment filed on February 1, 1999 to these claims were to further distinguish over the prior art and overcome the rejections under 35 U.S.C.

§ 102, 103. However, Applicant has not proposed removing those limitations, which would amount to an impermissible recapture.

It is clear from the original prosecution history that separate rejections were made in separate Office Actions. The first Office Action rejections were based on prior art under 35 U.S.C. §§ 102, 103. Amendments made in response to that Office Action are subject to review for impermissible recapture, and have not been proposed to be deleted in this reissue application. In the second Office Action, the Examiner indicated that the claims were allowable but for the issue under 35 U.S.C. § 112, first paragraph. In response to this §112 rejection, Applicant added a limitation this was proposed for deletion in this reissue application. This limitation is clearly not subject to review with respect to recapture because it was not added to overcome a prior art rejection.

For the above reasons, Applicant respectfully submits that the rejection under 35 U.S.C. § 251 of Claims 1, 66, and 129 is improper and should be withdrawn. However, various claims have been amended to advance prosecution and place all claims in condition for allowance.

Objection to Claims

Claims 106-120 were objected to as being presented in improper format for a reissue application.

As requested by the Examiner in the Office Action, and discussed by telephone, Applicant has presented a claim listing of all claims with status identifiers and proper underlining of added claims relative to the issued patent to obviate the objection.

SUMMARY

Applicant has made a genuine effort to respond to the Examiner's rejection and advance prosecution of this case. Applicant respectfully submits that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested.

No additional fee is believed to be due as a result of the filing of this paper. However, please charge any fees to our deposit account 02-3978.

Respectfully submitted,

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